

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

NATHANIEL OWENS, et al.,

Plaintiffs,

v.

MARTIN F. HORN, et al.,

Defendants.

CIVIL ACTION NO. 3:02-CV-0356

(JUDGE CAPUTO)

**MEMORANDUM**

Plaintiffs Nathaniel Owens, et al., filed three motions for judgment on the pleadings. They filed their first one on December 28, 2005 (Doc.207), second one on February 1, 2006 (Doc.214) and the third one on April 13, 2006 (Doc. 219). Defendants Martin F. Horn, et al., have replied to all three. (Docs. 213, 216, 223.) On September 9, 2005, Plaintiffs filed a Second Amended Complaint (Doc. 185) to which Defendants have yet filed an answer. All three of Plaintiffs' motions are based on Defendants failure to file a timely answer to their Second Amended Complaint. Since under Rule 12(c) of the Federal Rules of Civil Procedure can only be filed after pleadings are closed, Plaintiffs' motion will be denied.

Judgment on the pleadings is only appropriate "after the pleadings are closed". *Fed. R. Civ. P. 12(c)*; see also *Kalian At Poconos, LLC. v. Saw Creek Estates Cmty. Ass'n, Inc.*, 275 F. Supp. 2d 578, 592 (M.D. Pa. 2003). The pleadings are closed after the complaint and answer are filed, along with any reply to additional claims asserted in the answer. *Fed. R. Civ. P. 7(a)*. Defendants are required to file answers to amended complaints. *Fed. R. Civ. P. 15(a)*; see also *Dr. B.H. Ginsberg Assoc. Profit Sharing Plan v. Cohen*, 1995 U.S. Dist. LEXIS 12473, at \* (E.D. Pa. Aug. 24, 1995). Because the Defendants have not filed their answer yet, the pleadings are not closed and it would not be appropriate to entertain this

motion.

The Court acknowledges that it has been about eight (8) months since the Second Amended Complaint has been filed. The Court also notes that Defendants have repeatedly failed to meet the requested extended deadlines that they set for themselves in their response to Plaintiff's motion for judgment on the pleadings. They have failed to meet their latest request for extension which was for May 31, 2006. (Doc. 223 at 3.) As of the present date, no answer has been filed to the Second Amended Complaint. Plaintiffs can better address this delinquency by consulting Rule 55(a) of the Federal Rules of Civil Procedure. *See St. Mary's Honor Ctr. V. Hicks*, 509 U.S. 502, 521-22 (1993).

An appropriate Order follows.

June 7, 2006

Date

/s/ A. Richard Caputo

A. Richard Caputo

United States District Judge

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**ORDER**

**NOW**, this 7<sup>th</sup> day of June 2006, **IT IS HEREBY ORDERED** that Mr. Nathaniel Owens' Motion for Judgment on Pleading (Docs. 207, 214, 219) are **DENIED**.

/s/ A. Richard Caputo  
A. Richard Caputo  
United States District Judge